* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **Crl. M.C. No. 5023/2006**

% Date of Decision: 27th November, 2007

\# **Dinesh Goel** .....Petitioner

! Through Mr. Braham Singh, Advocate

Versus

$ **State of NCT of Delhi & Ors.** .....Respondents

^ Through Mr.Sanjay Lao, APP for the State.

Mr. Ajay Kumar Gupta, Advocate for the complainant.

CORAM:

* **HON'BLE MR. JUSTICE P.K.BHASIN**

1. Whether Reporters of local papers may be allowed to see the Judgment?(No)
2. To be referred to the Reporter or not?(No)
3. Whether the judgment should be reported in the digest?(No)

JUDGMENT

P.K.BHASIN, J:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR no. 558/2002 for the offences punishable under Sections 406/420/120-B of Indian Penal Code ('IPC' in brief) registered on 29.12.2002 at Police Station Ambedkar Nagar and also the resultant criminal proceedings emanating there from pending in the Court of Ms. Geetanjali Goel, Metropolitan Magistrate, Delhi.

2. It is the case of the prosecution that under the "PRIME MINISTER ROJGAR

YOJANA" launched by the Central Government in the year 1995 the objective of which was to provide financial assistance for self employment after being recommended by the Commissioner of Industries, Government of National Capital Territory of Delhi was sanctioned a loan of Rs. 70,000/- on 12.08.1995 vide account no. TL-204/1995 by respondent no. 4, Punjab National Bank. In order to get the sanctioned loan, the petitioner hypothecated some goods but failed to make payment of instalments and interest accruing thereon and when respondent no. 4's employees visited the premises of the petitioner it transpired that the hypothecated goods had already been sold without permission of respondent no. 4-bank in violation of terms and conditions of the loan agreement. Respondent no. 4 then got registered a criminal case at police station Ambedkar Nagar on 29.12.2002 for the offences punishable under Sections 406/420/120B I.P.C. pursuant to which the matter was investigated by the police and after completion of the investigation charge sheet was filed in the Court of Metropolitan Magistrate, New Delhi.

3. During the pendency of the above said criminal proceedings the petitioner and respondent no. 4 resolved their dispute regarding the loan amount and have come to an amicable settlement and the petitioner is stated to have made the payment to the complainant bank as per the settlement.

4. Since one of the offences for which the petitioner was being prosecuted, namely, under Section 406 IPC was not compoundable as per the provisions of

Section 320 Cr.P.C the present petition under Section 482 Cr.P.C. was filed by the petitioner. Notice of the petition was sent to the State and the complainant bank. The bank entered appearance through its counsel on 10.10.2007. In support of this petition learned counsel for the petitioner placed reliance upon one judgment of the Apex Court in "***Nalini Shankaran & Ors. v. Neelkanth Mahadeo Kamble & Ors." 2007 (2) Crimes 329 (SC),*** and three judgments of this Court in "***Rishi Raj & Ors. v. The State" 2001 (2) JCC 234, "Ajay Kumar & Ors. v. State & Ors." 131(2006)DLT 130*** and "***D.C. Singham v. State & Anr." 2006 (1) JCC 371.***

5. Learned counsel representing respondent no.4 submitted before this Court that bank has received its loan amount and affirmed that the matter has been amicably resolved and so it was no more interested in pursuing the case against the petitioner. On receipt of full and final payment of the entire amount respondent no. 4 issued a certificate in writing on 04.03.2005 which is annexed to this petition as 'Annexure-B' stating that bank has adjusted the term loan by way of compromise and that there are no outstanding dues against the petitioner.

6. Learned APP for the State, however, opposed quashing of the FIR on the ground that that allegations against the petitioner are grave in nature and the offence under Section 406 IPC is not compoundable under Section 320 Cr.P.C. and if this offence is permitted to be compounded that would amount to bye-passing the provisions of section 320 Cr.P.C. which should not be done by this Court by exercising the inherent jurisdiction vested in it under Section 482 Cr.P.C.

7. I have given my due consideration to the rival submissions. It is now well settled by many judgments of the Hon'ble Supreme Court that FIRs even in respect of those offences which are not compoundable under section 320 Cr.P.C. can be quashed as also the criminal proceedings emanating therefrom if it is felt by the Court while dealing with a quashing petition under section 482 Cr.P.C. that it would secure the ends of justice if the FIR and criminal proceedings arising therefrom are quashed and continuation of the criminal proceedings would amount to abuse of the process of law. Reference in this regard can be made to one of the judgments of Hon'ble Supreme Court which is reported in "***B.S.Joshi & Ors. Vs. State of Haryana & Anr.", AIR 2003 SC 1386*** wherein it has been so held. It is significant to note that one of the offences in that case was also under section 406 I.P.C. but still the criminal proceedings were quashed because of the compromise between the complainant side and the accused persons. In the present case, the FIR against the accused came to be registered primarily because of his failure to pay the instalment amount which the complainant bank had sanctioned. Since the complainant has received back the amount from the accused it would secure the ends of justice if the FIR registered against the petitioner and the ongoing trial are quashed.

8. This petition is accordingly allowed and consequently FIR No. 558/2002 under Sections 406/420/120-B IPC registered at police station Ambedkar Nagar and criminal proceedings arising therefrom pending in the Court of Ms. Geetanjali

Goel, Metropolitan Magistrate, New Delhi are hereby quashed against the charge-sheeted accused.

November 27, 2007 **P.K.BHASIN, J**

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